

EXHIBIT 5

1 Kevin Frye

2 IN THE UNITED STATES DISTRICT COURT

3 NORTHERN DISTRICT OF MISSISSIPPI

4 Oxford Division

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8 JOHN RASH,

9 Plaintiff,

3 : 20-cv-224-NBB-RP

10 v.

11 LAFAYETTE COUNTY, MISSISSIPPI,

12 Defendant.

13 * * * * *

14

15

16 VIDEOTAPED VIDEO CONFERENCE DEPOSITION OF

17 KEVIN FRYE

18 Location of witness:

19 1100 Tyler Avenue, #101

20 Oxford, MS 38655

21 Tuesday, December 8, 2020

22

23

24 Reported by: DEBRA AMOS ISBELL, CCR, RDR, CRR

25 Job No: 187458

Page 2

1 Kevin Frye
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3 (ALL APPEARANCES BY VIDEO CONFERENCE)
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9 BY: C. JACKSON WILLIAMS, ESQUIRE
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Page 6		Page 7	
1	Kevin Frye	1	Kevin Frye
2	Lafayette County, Mississippi, defendant. This is in	2	EXAMINATION
3	the United States District Court, Northern District of	3	BY MR. WILLIAMS:
4	Mississippi, Oxford Division, case number	4	Q. Kevin, to get started, I just want to get a
5	3:20-CV-224-NBB-RP. The time is 9:15 central time.	5	little bit of your background information. And let's
6	The date is December 8th, 2020. William Thomas is the	6	start off with when did you arrive in Oxford?
7	videographer. Debra Isbell is the court reporter.	7	A. I came to Oxford in 2002 to start law school
8	Counsel, would you now identify yourselves	8	here.
9	for this proceeding.	9	Q. And how long were you here for law school?
10	MR. WILLIAMS: C. Jackson Williams, counsel	10	A. I graduated in 2005. Started a job in
11	for the plaintiff. Ms. Isbell, my bar number is 7226	11	Jackson; was there for about 18 months, 20 months or
12	if you need to look up my contact information later	12	so. And then I've been back in Oxford since early
13	for the record.	13	2007.
14	MR. TOM: Joshua Tom, ACLU of Mississippi,	14	Q. And what did you do when you arrived back in
15	on behalf of Plaintiff John Rash.	15	Oxford in 2007?
16	MR. O'DONNELL: David O'Donnell on behalf of	16	A. Well, my first job was working for Judges
17	Lafayette County, Mississippi.	17	Howorth and Lackey in the Circuit Court of our
18	THE VIDEOGRAPHER: All right. Thank you.	18	district in the Lafayette County Circuit Court
19	Will the court reporter please swear in the	19	building.
20	witness.	20	Q. And this was the courthouse in the middle of
21	COURT REPORTER: Mr. Frye, would you raise	21	the square --
22	your right hand, please.	22	A. Yes.
23	KEVIN FRYE	23	Q. -- or was it in the courthouse that is now
24	was sworn and testified as follows:	24	the Chancery building?
25	THE WITNESS: I do.	25	A. Well, actually both. When I first started
Page 8		Page 9	
1	Kevin Frye	1	Kevin Frye
2	working, it coincided with some remodeling that	2	A. Well, our term of court happens once a
3	occurred on the grounds of the Circuit Court building.	3	quarter, so January, April, July, and October. I'm
4	So I started working for Judge Howorth. My office was	4	always there in those months off and on. And beyond
5	in the white courthouse in the center of the square.	5	that probably I'm in that building at least three or
6	I can't remember the month, but somewhere in	6	four times a month if there's nothing going on. And
7	April, I'm thinking, May sometime, we moved into the	7	if there is court going on, I'm there almost on a
8	Chancery Building where we were until -- well,	8	daily basis during those months of term.
9	actually I took a different job, opened my office	9	Q. Where is your office located in relation to
10	before we were able to move back into the regular	10	the Circuit Courthouse in Oxford, Mississippi?
11	Circuit Court building.	11	A. Currently my office is at 1100 Tyler, which
12	Q. When did you open your office again?	12	is on 11th and Tyler Avenue. For those familiar with
13	A. Late 2007.	13	Oxford, kind of what I tell everybody is the parking
14	Q. What sort of practice have you developed	14	lot behind City Grocery is what my office faces. So I
15	since late 2007?	15	can see the clock tower of the courthouse from the
16	A. General practice law firm. We do a variety	16	front door.
17	of different small business work, family law work, and	17	When I first started my practice -- I guess
18	criminal defense work.	18	I have had a couple of different offices. But for
19	Q. Does your practice ever require you to	19	almost five years I was above My Favorite Shoes in the
20	litigate or visit the Circuit Courthouse in the middle	20	space there with the balcony that overlooks the
21	of the square in Oxford?	21	courthouse. So throughout the time I've practiced in
22	A. Sure. Regularly, yes. I'm there	22	Oxford, my office has been on or immediately around
23	frequently.	23	the square.
24	Q. And when you say "regularly" or	24	Q. So My Favorite Shoes is on the square
25	"frequently," what does that mean?	25	itself?

<p style="text-align: right;">Page 46</p> <p>1 Kevin Frye 2 and there's a line out the door. 3 Q. Have you ever been in the Library? 4 A. I have. Not at the time I just described. 5 But yes, I've been in there. 6 Q. And do you know what sort of beverages they 7 serve? 8 MR. O'DONNELL: Jack, where are you going 9 with this? Go ahead. 10 THE WITNESS: He's having fun. 11 A. Yes. They serve alcoholic beverages and I'm 12 sure a variety of nonalcoholic beverages, though I 13 cannot say I've ever -- I'm sure I've had a water 14 there at times. 15 Q. Have you had any clients who have been 16 picked up there? 17 A. Yes. 18 Q. On what basis? 19 A. Alcohol-related and drug-related charges. 20 Q. Okay. I want you to take just a moment and 21 review Exhibits B-21 through B-23 and tell me whether 22 there's anything in those exhibits that does not 23 accurately reflect the area of the square that is 24 being depicted. 25 A. No, there's not. These are all an accurate </p>	<p style="text-align: right;">Page 47</p> <p>1 Kevin Frye 2 depiction of the square as it exists today. 3 MR. WILLIAMS: We've been going for an hour 4 and 20 minutes, approximately. I'm prepared to move 5 on. But would anybody like to take a brief break? 6 MR. O'DONNELL: Let me take a five-minute 7 break, Jack, if you don't mind. Kevin's time is 8 valuable. 9 THE VIDEOGRAPHER: So we are going off 10 record. The time is 10:18. 11 (A RECESS WAS TAKEN.) 12 THE VIDEOGRAPHER: We're back on record. 13 The time is 10:23. 14 BY MR. WILLIAMS: 15 Q. Kevin, I want to spend a little bit of time 16 talking about events, civic events and other events 17 that happen on and around the square. And why don't 18 we start with football weekends. You mentioned 19 earlier that sometimes some of the restaurants and 20 bars are particularly busy during football weekends. 21 Can you tell me about football weekends in Oxford, 22 Mississippi? 23 A. Well, football weekends bring 10s of 24 thousands of residents -- of visitors to the community 25 plus residents who like to get out. And the square is </p>
<p style="text-align: right;">Page 48</p> <p>1 Kevin Frye 2 kind of the cultural hub of all of that. It's not 3 unusual on big weekends to see people start arriving 4 by Wednesday for SEC games, but for sure on Thursday. 5 And you'll see traffic lined up on South Lamar 6 sometimes half a mile down to get to the square. 7 Q. What happens on the square during football 8 weekends? 9 A. During football weekends what happens on the 10 square is lots of shopping, lots of eating, lots of 11 drinking, a lot of people out and about just moving 12 around. You'll see all of those benches that we've 13 looked at in pictures being used. You'll see just a 14 whole variety of people out and about. 15 Q. And at what hours of the day does this 16 occur, do you know? 17 A. All hours of the day. Especially if the 18 game is an early game, it will start earlier in the 19 day. But most of the shops usually open by 10 20 o'clock, sometimes a little earlier if it's a big 21 weekend. But, you know, all hours of the day up and 22 until the bars close at 1 o'clock. It used to be 23 midnight but now it's 1 o'clock. 24 Q. Have you ever been to Beale Street in 25 Memphis? </p>	<p style="text-align: right;">Page 49</p> <p>1 Kevin Frye 2 A. Not recently, but yes. 3 Q. Have you ever been to Bourbon Street in New 4 Orleans? 5 A. Yes. 6 Q. And what is your recollection from your 7 prior life of what those streets were like at 8 nighttime? 9 A. Busy, very busy, similar to the square on a 10 big game weekend. 11 Q. When you say they were busy, what takes 12 place? 13 A. Food, restaurants, bars, shopping, that's 14 all going on, people moving about, going from place to 15 place, being social. 16 Q. And so you may have already answered this, 17 but can you liken activities on the square during 18 football weekends to activities at Beale Street in 19 Memphis or Bourbon Street in New Orleans? 20 MR. O'DONNELL: Object to the form. 21 BY MR. WILLIAMS: 22 Q. It's a yes or no question. 23 A. I think the answer to that is yes. Many 24 people liken them. I've always -- 25 Q. So let me correct my form. How would you </p>

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1	Kevin Frye	
2	A. I do recall. I've participated in that.	
3	I'm a member of St. Peters and have served on the	
4	vestry there recently. And yes, the Mardi Gras parade	
5	starts in the St. Peters parking lot, comes up Van	
6	Buren around the courthouse, and then back to	
7	St. Peters on Jackson. So it's a short parade.	
8	Usually there's a small band that participates and	
9	plays, you know, some New Orleans-style music, jazz.	
10	And people watch, beads are thrown, and people stand	
11	along the route, including on the courthouse grounds,	
12	to catch beads and wave at the parade goers -- or the	
13	people in the parade.	
14	Q. Now, Van Buren is the street that girds the	
15	south side of the square; right?	
16	A. Right.	
17	Q. And so the parade originates on Van Buren,	
18	and they march from the church to the square and	
19	around the courthouse and then march back on the	
20	street that girds the north side of the square, which	
21	becomes Jackson Avenue; am I correct in that	
22	description?	
23	A. That's right. Yeah, it just another example	
24	of the square being the cultural center, you know.	
25	There are parades that happen. There was a Martin	
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1	Kevin Frye	
2	A. Yeah. I think it was on Martin Luther King	
3	Day last year, although I'd have to check my calendar	
4	to be certain. But it started at Second Baptist,	
5	which is a little beyond St. Peters on Jackson Avenue	
6	off the square. It came up to St. Peters, over to Van	
7	Buren, and around the courthouse, just like we	
8	described the route of the Mardi Gras parade, and then	
9	went back down Jackson to the Second Baptist Church.	
10	That's a walk I participated in last year.	
11	Q. And what is the Second Baptist Church?	
12	A. It's a historically black church that is	
13	located just off the square to the west on Jackson.	
14	Q. Can you estimate how many people	
15	participated in that march last year?	
16	A. 50 to 75, I would think.	
17	Q. And can you tell me about the event	
18	generally? Was it simply a march?	
19	A. It wasn't only a march. It included a	
20	march. It was in the morning. It was on a Saturday,	
21	and there was breakfast at Second Baptist. I took one	
22	of my boys. We had breakfast, then we did the march,	
23	and we were done before lunchtime. After the march	
24	there was some sort of program at Second Baptist. I	
25	did not participate in that because I had to take my	
1	Kevin Frye	
2	Luther King walk last year. There are a variety of	
3	things that happen where the square is the center of	
4	the community.	
5	Q. Do you recall approximately what time the	
6	Mardi Gras parade takes place?	
7	A. In the evening. It starts between 5 and 6.	
8	I can't remember the exact time. But it's after work	
9	hours. I know that because I've participated with our	
10	kids. And as soon as the parade is over, St. Peters	
11	does a pancake dinner inside. So by the time you're	
12	back, it's dinnertime.	
13	Q. Do people observe the parade?	
14	A. Absolutely, yes.	
15	Q. Why?	
16	A. It's fun. The community knows it happens.	
17	It happens every year. And a lot of people in our	
18	community are Mardi Gras supporters and enjoy getting	
19	out and being supportive of that. So there are always	
20	people along the walk.	
21	Q. Do you know whether people are on the	
22	courthouse grounds observing?	
23	A. Yes, there are people there.	
24	Q. Now, you mentioned a Martin Luther King walk	
25	a moment ago. Would you tell me about that?	
1	Kevin Frye	
2	kid home. But it was an event. It wasn't just a	
3	march.	
4	Q. How do you describe the mood of that event?	
5	A. Somber.	
6	Q. I'm going to shift backwards. I want to	
7	talk about Christmas one more time. What does the	
8	square look like at nighttime during Christmas?	
9	A. It's lit up like bright. There are lights	
10	strung from all the buildings around the square to the	
11	courthouse clock. There are lights strung around the	
12	tops of all the buildings on the courthouse. Those	
13	are all done by the City on top of whatever	
14	decorations are put up by the individual business	
15	owners.	
16	Q. They string -- lights are strung --	
17	A. To the top of the clock tower. It's a	
18	canopy of lights may be the best way to describe it.	
19	And I'm still looking at B-14, the picture I have	
20	pulled up. And if you look closely, you can actually	
21	see -- I can see two -- no, three strands of lights,	
22	one just directly above the tree that you see there,	
23	one over to the left part of the tree, and a third	
24	that you can see between the -- I think that's an oak	
25	tree there that I'm looking at, and the magnolia tree	

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1	Kevin Frye	1	Kevin Frye
2	is on the left.	2	don't think we had a particular formal vote that I
3	Q. So I'm looking at thin diagonal lines --	3	recall on it.
4	A. Right.	4	Q. Now, when you say Jeff, who is Jeff?
5	Q. -- in the blue field, the sky. Is that	5	A. Jeff Busby who is the Board president of the
6	what you are describing?	6	Board of Supervisors the last four years, 2016 to
7	A. Yes, sir, that is.	7	2019.
8	Q. And what sort of lights are those?	8	Q. I'm shifting gears on you again, Kevin.
9	A. They're white bulb LED lights.	9	Let's go to evenings on the square. And we spoke that
10	Q. How long has this taken place that you know	10	sometimes it's crowded for a variety of reasons. Tell
11	of?	11	me generally about college students' presence on the
12	A. Well, there was a history of it taking place	12	square in the evenings?
13	years ago. I think this is -- it's either the third	13	A. Well, when school is in session, there are
14	or the fourth year in a row that they've done it, the	14	always college kids all over town, the square
15	City. Robyn Tannehill, who's the current mayor, in	15	included. I would say that -- if you're thinking
16	her first year -- which I think makes it -- this would	16	about when the bulk of college students make their way
17	be the third year, I think, that it's done. It might	17	to the square, it's usually later in the evening.
18	be four.	18	Q. "Later" is relative. I've started going to
19	Q. Do you have any personal knowledge of how	19	bed at 8 o'clock every night.
20	this tradition was reinstated three or four years	20	A. Yeah. I'm usually in bed at 9:15, but I
21	ago?	21	think that's about when they start arriving on the
22	A. Yeah. I think a conversation happened	22	square generally.
23	between Robyn and Jeff, and the question was: Does	23	MR. O'DONNELL: This is pure speculation.
24	the County have any objection to us tying these to the	24	Q. Would you be able to comment on that based
25	top of the courthouse? And the answer was no. I	25	upon your representation of clients in criminal court?
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1	Kevin Frye	1	Kevin Frye
2	A. I can comment on it based on that, yes. I	2	with students and/or alumni?
3	always -- you know, when my office was above My	3	A. It's safe, yes. It always has been.
4	Favorite Shoes, I lived basically right next to the	4	Q. And what do you base that opinion on?
5	cemetery. So there was a time that I was on the	5	A. I base that opinion on my personal
6	square regularly at a variety of different hours.	6	experience and I base that opinion on my law practice.
7	That's been some years ago now.	7	As many people as I've represented, it's never been --
8	But yeah, the college kids come out in force	8	I'd have to sit and think hard. But off the top of my
9	as the sun goes down and a little later than that.	9	head, I can't think of any safety issues that have
10	Q. Do alumni ever come out in force?	10	brought people to my office.
11	A. Absolutely.	11	Q. Do people come to your office for
12	Q. And when would that be?	12	alcohol-related issues?
13	A. More dinnertime. But they stick around.	13	A. Sure, yeah. Public drunks and minors in
14	I've represented plenty of parents and alumni who find	14	possession and DUIs, those kind of things. So I
15	their way to my office after a late night on the	15	suppose you could say it's a safety element. But I
16	square. So it's not just college kids that are out	16	guess my point is I've never had people in my office
17	late. They just tend to arrive later.	17	because -- you know, or a business hire me because
18	Q. What sort of events would cause alumni to be	18	they were broken into or somebody got run over on the
19	there?	19	square or anything like that.
20	A. Oh, a whole variety of things, whether it's	20	Q. What about violent confrontations?
21	Double Decker or a football game or a baseball game or	21	A. Oh, there are fights, bar fights that happen
22	a basketball game or even other events on the square	22	and such, yes. But that's a pretty rare occurrence,
23	or on campus like at the Ford Center, for example.	23	relatively speaking.
24	Q. Do you have an opinion as to whether the	24	Q. Do you have an opinion as to the
25	square is safe when it's populated so at nighttime	25	effectiveness of law enforcement on the square during

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1	Kevin Frye	1	Kevin Frye
2	know those individuals?	2	a well-thought-of member of the community.
3	A. I do. Lee Robinson, David Sansing, Will	3	Q. And Neilson's is the store we identified
4	Lewis, Jr., Chris Bush -- who I do not know -- and	4	earlier as being the oldest department store in the
5	Brian Wilson -- who I also do not know.	5	South?
6	Q. So who is Lee Robinson?	6	A. Correct.
7	A. He's a pastor.	7	Q. Did this study group ever address the Board?
8	Q. Of what church?	8	A. They did not.
9	A. I think Second Baptist maybe. I might be	9	Q. Do you know why they didn't?
10	wrong on that.	10	A. Well, I don't know that they were ever asked
11	Q. And who is David Sansing?	11	to address the Board. I did not ask that they address
12	A. A historian who had been involved with the	12	the Board. They did provide us with some proposed
13	University's contextualization project.	13	language. I think they even revised it when asked.
14	Q. Do you know whether he was employed with the	14	I actually think this is a fairly
15	University?	15	interesting moment. You know, there were five people
16	A. He was.	16	appointed to this committee. Typically what would
17	Q. And what was his position, if you know?	17	happen in choosing who to appoint to a committee is
18	A. He was in the history department, but I	18	each supervisor would pick somebody. I specifically
19	don't know his exact position.	19	did not choose any of these people and I specifically
20	Q. Do you know whether he had any area of	20	said why don't you guys choose people that you will be
21	expertise?	21	willing to listen to. Because I knew that it was
22	A. Yeah. In the Civil War in particular, I	22	going to be important for them to have some
23	think.	23	willingness to listen to people that were willing to
24	Q. Who is Will Lewis, Jr.?	24	put some time and energy and effort into this issue.
25	A. Will Lewis is a local owner of Neilson's and	25	So I didn't have a hand in picking these people.
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1	Kevin Frye	1	Kevin Frye
2	Actually, my recollection is that the first I knew who	2	notice the agenda item didn't have names of people.
3	was on the committee was when I got this particular	3	And like I said, the first I knew who they were was
4	email.	4	when I got this email.
5	Q. Why did you feel that more consideration	5	MR. WILLIAMS: So I've uploaded -- I believe
6	would be given to the report of the people on the	6	I've uploaded Exhibit I.
7	committee if you forewent an opportunity to appoint	7	(EXHIBIT I, EMAIL TO SUPERVISORS AND DAVID
8	someone to the committee?	8	O'CONNELL FROM LISA CARWYLE, 11/1/2017,
9	A. Well, if they get to pick who to listen to,	9	WITH ATTACHED WORDING WAS MARKED FOR
10	I would hope that they would be more inclined to	10	IDENTIFICATION.)
11	listen to them than somebody I would pick is why. And	11	A. Okay. Yeah, I've got it.
12	that was based on my experience in choosing people for	12	Q. So what is Exhibit I?
13	various committees in 2016 and up until this point in	13	A. This is an email from Lisa Carwyle, the
14	2017 while being on the Board.	14	County administrator, to the five supervisors and
15	Q. What was that experience?	15	David O'Donnell with wording -- this is apparently the
16	A. Just that everybody has their -- everybody	16	fourth draft of a document with wording for
17	has their network and people that they're more apt to	17	contextualizing the monument on the square.
18	find credible. And if somebody is not in your	18	Q. Did you receive the preceding three drafts
19	network, you may just be skeptical of them for that	19	during this process?
20	reason alone. And I didn't want to -- I was really	20	A. My recollection is we saw -- I saw one draft
21	careful in making sure in my mind that whoever they	21	before that. But no, I did not see all of them.
22	picked would be somebody they would be willing to	22	Q. Do you have any knowledge as to why the
23	listen to. So I frankly don't know who chose who or	23	revisions occurred?
24	if one person chose all five of these. Again, it	24	A. Because certain other supervisors were
25	wasn't -- we voted to form a committee, but you'll	25	uncomfortable with the language as proposed, wanted to

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1	Kevin Frye	1	Kevin Frye
2	tone it down.	2	his view or whatever, you know, his view of history.
3	Q. When you say "tone it down," what does that	3	And he basically said: "How do I know this is right?"
4	mean?	4	That was his basic statement. But I think in that
5	A. Well, certainly none of them want to be	5	sense that kind of spoke for a couple of other ones,
6	offended by the idea that that monument might be there	6	too, a couple of other Board members.
7	for any reason that's supportive of slavery. They	7	Q. Did anybody suggest that David Sansing be
8	didn't want to be offended by that or potentially	8	allowed to come and speak to the supervisors?
9	offend anybody else or get any blowback that the	9	A. Not to my recollection. Nobody wanted to
10	language was offensive. That was the main sense I	10	deal with it at this point, Jack.
11	got.	11	Q. Why do you say nobody wanted to deal with
12	Q. When you say "be offended by it" -- and	12	it? What causes you to believe that?
13	let's take each segment individually. When you say	13	A. If you don't bring it up, it will go away.
14	"they might be offended by it," how would -- and they	14	And that's in fact what happened. It did happen.
15	being the other supervisors -- how would those	15	Until this year, you know.
16	supervisors have been offended?	16	Q. Earlier you mentioned "blowback." What do
17	A. Well --	17	you mean by "blowback"?
18	MR. O'DONNELL: I'll interject an objection	18	A. Politicians don't like to be criticized.
19	here about speculation. If you're going to ask the	19	And in particular local supervisors don't want to go
20	witness to speculate, that's fine. But I want the	20	out into the community and be asked questions by their
21	record to be clear about whether he's doing that or	21	friends from years past or people that they see at
22	not.	22	church about why they did one thing or another. And
23	A. Yeah. I specifically recall David Rikard	23	this is a particularly high-profile issue in the
24	saying "I don't believe this language" and having, you	24	community.
25	know, just read through it and it didn't comport with	25	Q. When you say this is high profile, what
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1	Kevin Frye	1	Kevin Frye
2	causes you to say that?	2	ready to shift gears into one last area of inquiry.
3	A. Well, other than when we -- other than when	3	David, Josh, will y'all remind me is the
4	we gave everybody a County trash can and made them use	4	general agreement that we have up to four hours with a
5	it, I can't remember us getting as many emails as we	5	witness?
6	did around this particular issue.	6	MR. O'DONNELL: There's no agreement, Jack.
7	Q. I know it's irrelevant, but tell me about	7	You can take as long as you need to. But I'm
8	the trash cans.	8	sensitive to the fact Kevin is a practicing
9	A. Well, you've got to pay for it and you can	9	attorney.
10	only have one. And if your trash doesn't fit, you've	10	THE WITNESS: I have a hard 2 o'clock stop.
11	got to pay for another one. And we rolled it out -- I	11	MR. WILLIAMS: I only have one last area,
12	can't remember if it was the week of Thanksgiving or	12	and I'm just trying to allocate my time appropriately.
13	the week of Christmas. But in retrospect, it was a	13	We're not going to go anywhere near 2 o'clock.
14	bad week to choose. Because everybody had a whole	14	THE WITNESS: I hope not, but thank you.
15	heck of a lot of trash, and we just left a lot of it	15	MR. WILLIAMS: Okay. Let's take five
16	there because it was not in the trash can. And this	16	minutes.
17	engendered some pretty frustrated residents. So a lot	17	THE VIDEOGRAPHER: We'll go off record. The
18	of emails. That's what I remember.	18	time is 12 noon.
19	Q. So getting back to Exhibit I, is this the	19	(A RECESS WAS TAKEN.)
20	last version of the contextualization -- suggested	20	THE VIDEOGRAPHER: We're back on record.
21	contextualization language that was considered by the	21	The time is 12:09.
22	Board?	22	BY MR. WILLIAMS:
23	A. It is.	23	Q. Kevin, I've uploaded Exhibit J into the chat
24	MR. WILLIAMS: Okay. This is a good chance,	24	box. If you haven't opened it, will you open it?
25	a good time to take another short break. I'm getting	25	A. I have it.

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1	Kevin Frye	1	Kevin Frye
2	front end.	2	than reading about it and seeing pictures afterwards.
3	Q. Do you have an opinion as to whether the	3	It seemed like everything went fine.
4	University was responsible in adopting safety policies	4	MR. WILLIAMS: Okay. I am going to load
5	in response to this threat of -- I'm going to use	5	Exhibit K.
6	outside agitators just for lack of a better word, the	6	(EXHIBIT K, EMAILS RE MAKER'S MARKET,
7	Flaggers and Confederate 901 and similar	7	2/26/2019 WAS MARKED FOR IDENTIFICATION.)
8	organizations.	8	Q. It should be up.
9	MR. O'DONNELL: Object to the form.	9	A. Yeah, I see it.
10	A. Yes. I think, again, it was handled well.	10	Q. And what is this?
11	I'm sure that there are various perspectives of who	11	A. This is my response on Tuesday, February
12	should have done what, where, when and why. And I	12	26th, to Lisa, the County administrator, the other
13	think that my recollection is that the City asked to	13	supervisors, and David, and then Lisa's response to
14	be reimbursed for some of their security services, and	14	me. So she sent out the proposed Facility Use Policy.
15	they perceived the University as responsible for	15	Like I said earlier, that's the first time I had seen
16	paying for some of it. But beyond that, I think	16	it. And I responded quickly, you know, within 20
17	everybody worked well together.	17	minutes of her sending it with a couple of questions
18	Q. And why do you think that the University was	18	that I had.
19	responsible? And I know that you addressed that	19	MR. O'DONNELL: Jack, let me interject at
20	shortly a moment ago, but I want to make certain that	20	this point. This is technically an attorney/client
21	I haven't led you into a --	21	communication. But I'm willing to waive it just for
22	A. No. I think everything went well. The	22	the purposes of examining Kevin on this email if we
23	march happened. It was fine. My recollection is I	23	can have that agreement that that examination won't
24	was at the pavilion before the basketball game while	24	constitute a waiver of the attorney/client privilege
25	it happened. And so I don't think I even -- other	25	beyond your examination of Kevin on this email.
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1	Kevin Frye	1	Kevin Frye
2	MR. WILLIAMS: Well, we may disagree as to	2	my position, not that it matters. But go ahead.
3	the extent of the privilege insofar as the County's	3	Q. If there are privileged -- if there are
4	deliberations on materials are concerned. But I agree	4	materials that you withheld that you believe were
5	with you, there's no need to hash that out here. And	5	privileged -- which I understand why you'd do that --
6	I'm not going to ask any questions beyond this email.	6	would you make certain that David has them so that
7	So I'm comfortable with that stipulation. I just want	7	they can go into the privilege log?
8	to make certain that I make it clear that at some	8	A. Yes. There are no documents that I thought
9	point down the road we may have to discuss the extent	9	were privileged. But yes, thank you for asking.
10	to which County deliberations are covered by an	10	Q. So what prompted this email?
11	attorney/client privilege.	11	A. Well, I just was -- I read the policy, and I
12	MR. O'DONNELL: Okay. I understand. And I	12	had a couple of questions related to it. That's the
13	agree, we're not going to argue about it. But just to	13	answer. You know, I knew, completely unrelated, I
14	be clear, can we stipulate -- can we agree that me not	14	think, to the use of the courthouse for a protest, the
15	instructing the witness not to answer the question and	15	Maker's Market that has routinely occurred on the
16	allowing him to answer your questions in this	16	courthouse lawn is a Yoknapatawpha Arts
17	deposition would not be used by the plaintiff in an	17	Council-sponsored event where local artists put booths
18	argument that we waived the attorney/client privilege?	18	up on the courthouse lawn Saturdays once or twice a
19	MR. WILLIAMS: We can agree to that. I'll	19	month and sell goods that they have made. The Maker's
20	be glad to stipulate to that.	20	Market, that's why it's named that. And I was aware
21	MR. O'DONNELL: Okay. Very good.	21	that certain supervisors perceived that as competition
22	MR. WILLIAMS: Okay.	22	for other businesses on the square who were paying
23	Q. So --	23	rent and were looking for ways to prevent the Maker's
24	A. Can I begin by saying I wouldn't have	24	Market from happening at all, which I strongly
25	produced this if I thought it was privileged. That's	25	disagreed with. Which is really what prompted me to

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